S.B. CIVIL WRIT PETITION NO.2328/2006

Smt. Kailash Devi.
vs.
Addl. Distt. Judge (FT), Rajsamand and ors.

Date : 3.12.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.SP Sharma, for the petitioner.

Mr.RS Mankad) for the respondents.
Ms.A Rangwani)

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Heard learned counsel for the parties.

The petitioner's application filed on 4.2.2006 for amending the written statement was rejected by the trial court on the ground that the amendment cannot be allowed after some delay in view of the amended provisions of Code of Civil Procedure.

Since by this amendment, the petitioner wants to raise a legal objection to the effect that whether pre-emption can be enforced on a property held on lease basis ? Since the objection is an objection of law only, therefore, the trial court should not have refused this objection to be incorporated in the written statement and should

have allowed the amendment because it goes to the root of the matter.

In view of the above, this writ petition is allowed, the impugned order dated 31.3.2006 is set aside and the application filed by the petitioner dated 4.2.2006 is allowed.

(PRAKASH TATIA), J.

S.Phophaliya